Keeping Children Safe in Education (KCSIE): September 2022 changes

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A new version of Keeping Children Safe in Education (KCSIE) will come into force on 1 September. Understand the changes and what your next steps should be.

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The 2022 version of Keeping Children Safe in Education (KCSIE) comes into force on 1 September.

Please note, this article only summarises the changes between KCSIE 2021 and 2022. For a summary of the whole 2022 document, take a look at this article. Click 'save for later' at the top of that article to be notified of any updates.

There are no major changes, but get up to speed with everything that's new below.

More detail on the terms ‘victim’, ‘alleged perpetrator’ and ‘perpetrator’

In the ‘summary’ section at the beginning of the guidance (page 4), KCSIE specifies that:

- ‘Victim’ is a widely understood and recognised term, but not everyone who has been subjected to abuse considers themselves a victim, or would want to be described that way. You should be prepared to use any term the child feels most comfortable with when managing an incident
- ‘Alleged perpetrator(s)’ and ‘perpetrator(s)’ are widely used and recognised terms, but you should think carefully about what terminology you use (especially in front of children), as in some cases, abusive behaviour can be harmful to the perpetrator too. You should decide what’s appropriate and which terms to use on a case-by-case basis

Part 1: safeguarding information for all staff

All staff working directly with children are expected to read at least part 1 of KCSIE (those who don’t work directly with children can read the condensed version of part 1, in Annex A). The changes to part 1 are:

New information on domestic abuse:

- A new paragraph on domestic abuse (paragraph 43), explaining:
  - Children who witness domestic abuse are also victims
  - Witnessing domestic abuse can have a lasting impact on children
  - Children can be victims, and perpetrators, in their own relationships too
  - The abuse can be physical, sexual, financial, psychological or emotional
- Added that extra-familial harms can include sexual harassment and domestic abuse in their own intimate relationships (teenage relationships) (paragraph 23)
- Added to the definition of abuse that harm can include ill treatment that isn’t physical, as well as witnessing the ill treatment of others - for example, the impact of all forms of domestic abuse on children (paragraph 26)

More detail on child-on-child abuse:

Support

- Child-on-child abuse is the new name for peer-on-peer abuse. This section has also been moved ahead of the section on child criminal exploitation (paragraph 32)
- Added that abuse in intimate relationships between children is sometimes known as 'teenage relationship abuse' (paragraph 35)

New paragraphs on:

- Explaining that children may not feel ready, or know how to tell someone they are being abused, exploited or neglected, and/or they might not recognise their experiences as harmful. Children may feel embarrassed, humiliated or threatened due to their vulnerability, disability, sexual orientation and/or language barriers. None of this should stop staff from having a 'professional curiosity' and speaking to the designated safeguarding lead (DSL) (paragraph 19)
- If staff have a safeguarding concern/allegation about another staff member (including supply staff, volunteers and contractors) that doesn't meet the harm threshold, then they should share it in accordance with your low-level concerns policy (paragraph 73)

Other changes

Part 2: the management of safeguarding

This sets out the responsibility of governing bodies, proprietors and management committees.

Your governors and trustees should:

- Receive appropriate safeguarding and child protection (including online) training at induction, which is regularly updated, to equip them with the knowledge to provide strategic challenge. This is so they can be assured that safeguarding policies and procedures are effective and support your school to deliver a robust whole school approach to safeguarding (paragraph 81)
- Be aware of their obligations under the Human Rights Act 1998, the Equality Act 2010, and the Public Sector Equality Duty (PSED) (paragraph 82). Note that these duties haven't changed
- Make sure:
  - Your designated safeguarding lead (DSL) has the appropriate status and authority to carry out their job. Governing bodies need to give the DSL the additional time, funding, training, resources and support needed to carry out their role effectively (paragraph 103)
  - Online safety is a running and interrelated theme whilst devising and implementing their whole school or college approach to safeguarding and related policies/procedures (this has now been specified as a responsibility of governing bodies and proprietors) (paragraph 136)
  - The leadership team and relevant staff are aware of and understand the filters and monitoring systems in place, manage them effectively and know how to escalate concerns (paragraph 140)
  - Your school has procedures to manage **any** safeguarding concerns (no matter how small) or allegations that do not meet the harm threshold (low-level concerns), about staff members (including supply staff, volunteers and contractors). See paragraph 151
  - The child protection policy reflects that children with special educational needs or disabilities (SEND), or certain medical or physical health conditions can face additional barriers, including cognitive understanding (being unable to understand the difference between fact and fiction in online content and then repeating the content/behaviours in schools or colleges, or the consequences of doing so). See paragraph 198
- Seek assurance that where another body is providing services or activities, that they have appropriate safeguarding and child protection policies/procedures in place. This applies regardless of whether or not the children who attend these services/activities are children on the school roll/attend the college (paragraph 166)

New sections adding greater detail on the Human Rights Act 1998, the Equality Act 2010, and the Public Sector Equality Duty (PSED)

KCSIE explains that in relation to safeguarding:

- **Human Rights Act 1998:** being subjected to harassment, violence and/or abuse, including that of a sexual nature, may breach any or all of the rights which apply to schools under the European Convention on Human Rights (ECHR) (paragraph 85)
- **Equality Act 2010:** governing bodies and proprietors should carefully consider how they're supporting their pupils and students regarding particular protected characteristics (including disability, sex, sexual orientation, gender reassignment and race) under the Equality Act (paragraph 88)
- **Public Sector Equality Duty (PSED):** you can take positive action to deal with particular disadvantages affecting pupils (where you can show it's proportionate). This includes making reasonable adjustments for disabled pupils. You could consider using it, for example, to support girls where there's evidence that they're being disproportionately subjected to sexual violence or harassment (paragraph 89)
- Under the PSED, you must have due regard to eliminating unlawful discrimination, harassment and victimisation. The PSED helps your school to focus on key issues and how to improve student outcomes. Some pupils may be more at risk of harm from issues such as sexual violence, homophobic, biphobic, transphobic bullying or racial discrimination (paragraphs 92 and 93)

Your staff behaviour policy (also called the staff code of conduct) should also include (paragraph 98):

- Low-level concerns
- Allegations against staff, and
- Whistleblowing

You play a crucial role in preventative education (paragraph 130)

This is in the context of a whole-school approach to preparing pupils for life in modern Britain and a culture of zero tolerance to sexism, misogyny/misandry, homophobia, biphobic and sexual violence/harassment. This will be underpinned by:

- Your behaviour policy
- A pastoral support system

Support

- A planned programme of relationships, sex and health education (RSHE), which is inclusive and delivered regularly, tackling issues such as:
  - Healthy and respectful relationships
  - Boundaries and consent
  - Stereotyping, prejudice and equality
  - Body confidence and self-esteem
  - How to recognise an abusive relationship (including coercive and controlling behaviour)
  - The concepts of, and laws relating to, sexual consent, abuse, grooming, coercion, harassment, rape, domestic abuse, so called honour-based violence such as forced marriage and female genital mutilation (FGM), and how to access support
  - What constitutes sexual harassment and sexual violence and why they're always unacceptable

Other changes

Part 3: more details on safer recruitment measures

You should:

- Consider carrying out an online search on shortlisted candidates to help identify any issues that are publicly available online (paragraph 220)
- Not include any repeated concerns or allegations that have all been found to be false, unfounded, unsubstantiated or malicious in a reference (paragraph 223)

Other changes

Part 4: handling allegations against staff

Part 4 has been renamed as 'safeguarding concerns and allegations made about staff, including supply teachers, volunteers and contractors'.

Additional clarity around low-level concerns:

- Low-level concerns can arise in several ways from various sources, e.g. suspicion, complaint or a disclosure (paragraph 427)
- Schools should have procedures in place for confidentially sharing low-level concerns and clarity around the role of the DSL and headteacher in this. The headteacher should be the ultimate decision-maker in respect of all low-level concerns, although they may wish to consult the DSL to take a more collaborative approach (paragraph 432)
- If you're in any doubt as to whether a low-level concern meets the harm threshold, then consult your local authority designated officer (LADO) (paragraph 434)
- In the examples of adult behaviour that could be a low-level concern, KCSIE has replaced sexualised language with 'humiliating pupils' (paragraph 425)

Part 5: child-on-child sexual violence and sexual harassment

The DfE's standalone guidance on sexual violence and sexual harassment is now absorbed fully within KCSIE (this is explained on page 7 of their consultation response).

More guidance on what to be aware of

- You should be aware of the importance of:
  - Making it clear that there is a zero tolerance approach to sexual violence and sexual harassment, and that failure to do so can lead to a culture of unacceptable behaviour and in the worst case scenario, a culture that normalises abuse
  - Recognising that even if there are no reports, it doesn't mean it's not happening
  - Challenging physical behaviour (potentially criminal in nature) such as grabbing bottoms, breasts and genitalia, pulling down trousers, flicking bras and lifting up skirts. Dismissing or tolerating such behaviours risks normalising them (paragraph 446)
- Children with SEND are 3 times more likely to be abused than their peers (paragraph 448)
- There's more detail on:
  - Harmful sexual behaviour (HSB) (paragraphs 454 to 457), including:
    - HSB can occur online and/or face-to-face and can also occur simultaneously between the 2
    - Both the ages and stages of development of the children are critical factors
    - The DSL and their deputies should have a good understanding of HSB, which could form part of their safeguarding training
    - Children displaying HSB have often experienced their own abuse and trauma, and it's important they're offered appropriate support
  - Preventing abuse (paragraph 458), notably the DSL should:
    - Discuss the local response to sexual violence and sexual harassment with police and local authority children's social care colleagues to prepare the school's or college's policies (especially the child protection policy) and responses, and
    - Be confident that they know what local specialist support is available to support all children involved (victims and alleged perpetrators) in sexual violence and sexual harassment, and be confident as to how to access this support

New section on confidentiality and anonymity (paragraphs 470 to 478)

Support

Regarding confidentiality:

- Staff shouldn't promise confidentiality as it might be in the victim's best interest to seek advice and guidance
- If a victim asks the school not to tell anyone about the sexual violence or sexual harassment, there's no definitive answer. This is because even if a victim doesn't consent to sharing information, staff may still lawfully share it if there's another legal basis under the UK GDPR that applies
- The DSL will have to balance the victim's wishes against their duty to protect the victim and other children
- The DSL should consider that:
  - Parents or carers should normally be informed (unless this would put the victim at greater risk)
  - The basic safeguarding principle is: if a child is at risk of harm, is in immediate danger, or has been harmed, a referral should be made to local authority children's social care, and
  - Rape, assault by penetration and sexual assault are crimes. Where a report of rape, assault by penetration or sexual assault is made, this should be referred to the police. Whilst the age of criminal responsibility is 10, if the alleged perpetrator is under 10, the starting principle of referring to the police remains

Regarding anonymity, schools should:

- Be aware of the criminal process in general where an allegation of sexual violence or sexual harassment is progressing through the criminal justice system
- Do all they reasonably can to protect the anonymity of any children involved in any report of sexual violence or sexual harassment, for example, carefully considering which staff should know about the report and any support for the children involved
- Consider the potential impact of social media in facilitating the spreading of rumours and exposing victims' identities

New section on discipline and the alleged perpetrator(s) (paragraphs 543 to 545)

- The DSL should take the lead role
- You can take disciplinary action whilst other investigations are ongoing e.g. by the police
- The fact another body is investigating/has investigated an incident doesn't (in itself) prevent you from coming to your own conclusion about what happened and impose a penalty accordingly. This is a matter for you and you should consider it on a case-by-case basis
- You should consider whether:
  - Taking action would prejudice an investigation and/or subsequent prosecution - liaise with the police and/or LA children's social care to determine this
  - There are circumstances that make it unreasonable/irrational for you to reach your own view about what happened
- You can, and should, take disciplinary action and still provide support at the same time if necessary

New section on working with parents and carers (paragraphs 546 to 551)

- You will (in most cases) engage with both the victim's and alleged perpetrator's parents or carers when there's been a report of sexual violence (this might not be necessary in relation to sexual harassment, but decide it on a case-by-case basis)
- The exception is if there's reason to believe informing a parent or carer will put the child at additional risk
- You should think carefully about what information you provide about the other child involved, and when. Make sure you work with relevant agencies to ensure your approach to information sharing is consistent
- It's good practice to:
  - Meet the victim's parent or carers with the victim to discuss what's being put in place to safeguard and support them, and how the report will progress
  - Meet with the alleged perpetrator's parents or carers to discuss what's being put in place that will impact them, e.g. moving them out of classes with the victim. You should explain the reason behind any decision
- The DSL would attend these meetings - decide what other agencies should attend on a case-by-case basis

New section on safeguarding other children (paragraphs 552 to 557)

- You should consider supporting children (and adult students) who have witnessed sexual violence, especially rape and assault by penetration
- You should do all you can to make sure the victim, alleged perpetrator(s) and any witnesses are not being bullied or harassed
- Social media is likely to play a role in the fall out from any incident/alleged incident, including for potential contact between the victim, alleged perpetrator(s) and friends from either side
- You should consider school transport as part of your risk assessment as a potentially vulnerable place for a victim or alleged perpetrator(s)
- It's important to keep your policies, processes and curriculum constantly under review to protect all children
- Reports of sexual violence and/or harassment may:
  - Point to environmental/systematic problems that could be addressed by updating policies, processes and the curriculum
  - Reflect wider issues in the local area

Extra clarity that:

- It should be clear to all victims that the law on child-on-child abuse is there to protect them, not criminalise them (paragraph 468)
- You should consider intra familial harms and any necessary support for siblings following a report of sexual violence and/or harassment (paragraph 482)
- Schools, as relevant agencies, should be part of discussions with statutory safeguarding partners to agree to the levels for the different types of assessment as part of local arrangements (paragraph 492)
- If there are delays in the criminal process, it will be important for the DSL to work closely with the police (and other agencies as required) whilst protecting children and/or taking any disciplinary measures against the alleged perpetrator(s) – this is to make sure the school's actions don't jeopardise the police investigation. If you have any questions about the investigation, you should contact the police (paragraphs 522 and 523)
- When supporting the victim, you should (paragraph 530):
  - Regularly review decisions and actions, and update relevant policies with lessons learnt
  - Look out for potential patterns of concerning, problematic or inappropriate behaviour, and where you identify a pattern, decide on a course of action
  - Consider if there are wider cultural issues within the school that enabled inappropriate behaviour to occur and whether extra teaching time and/or staff training could minimise the risk of it happening again

Support

- Children who have experienced sexual violence can display a wide range of responses, so schools should remain alert to the possible challenges of detecting those signs and show sensitivity to their needs (paragraph 533)

Other changes

Annex C: role of the designated safeguarding lead (DSL)

The DSL is expected to be aware that children must have an 'appropriate adult'.

There have been no other changes.

Next steps

- Train your staff on KCSIE 2022, using our September 2022 INSET pack, fully updated in line with the latest guidance. If you're not yet a member of The Key Safeguarding, download your free sample slides from the INSET pack page
- Update your child protection policy: model (click 'save for later' to be notified when our model has been updated for 2022)
- Check your staff behaviour policy includes low level concerns, allegations against staff and whistleblowing
- Make sure your RSHE programme covers the issues outlined in KCSIE (see part 2 above)
- Make sure you have procedures in place for confidently sharing low-level concerns (this is likely to be in your child protection policy)

Take a look at the following articles to help you tackle sexual harassment in your school:

- How to help pupils feel confident reporting incidents of sexual harassment
- How to talk to pupils about sexism, sexual harassment and sexual assault
- A self-assessment for your staff to check their understanding of the issues and procedures
- How to consult with staff, pupils and parents about changes to your behaviour policy, and how to adapt your policy to tackle sexism and sexual harassment

Article updates

24 May 2022

We updated this article in line with Keeping Children Safe in Education (KCSIE) 2022.

Read next

- Child protection policy: model
- Ofsted review of sexual abuse in schools: summary
- Keeping Children Safe in Education (KCSIE): summary
- Sexism and sexual harassment: how to update your behaviour policy

Also in 'Managing safeguarding'

- Child protection concern forms
- Conducting 'safe and well' checks
- EYFS safeguarding and welfare checklist
- How to encourage the reporting of sexism and sexual harassment
- How to prevent child-on-child abuse

Support

- Sexism and sexual harassment: behaviour policy consultation toolkit
- How to encourage the reporting of sexism and sexual harassment

- Keeping Children Safe in Education (KCSIE): summary